

**AMENDMENTS TO THE DRAWINGS**

Please replace the drawing sheets containing FIGs. 1 and 2 with the attached replacement sheets of drawings containing FIGs. 1 and 2.

Attachment:        Replacement sheets  
                         Annotated sheets showing change

**REMARKS**

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated July 30, 2010 has been received and its contents carefully reviewed.

Claims 1, 3, 9, 14, 19, 22, 26, and 31 are hereby amended. Claims 4-8, 13, 17-18, 23-25, and 29-30, and 34-35 are hereby canceled without prejudice to or disclaimer of the subject matter contained therein. Accordingly, claims 1-3, 9-12, 14-16, 19-22, 26-28, and 31-33 are currently pending. Reexamination and reconsideration of the pending claims is respectfully requested.

**The Office objects to the drawings for informalities.** *Office Action* at p. 2. The attached replacement sheets of drawings replace the original sheets of drawings containing FIGs. 1 and 2, as-filed on December 29, 2005. These replacement sheets include identifiers required by the Office. Accordingly, Applicant respectfully requests the Office to withdraw the objection to the drawings.

**The Office rejects claims 3-9 under 35 U.S.C. § 112, second paragraph.** *Office Action* at p. 2. However, based on the detailed action it appears that the Office intended to reject claims 3-8, as claim 9 does not contain the text referred to by the Office on p. 3 of the Office Action. Claims 4-8 are canceled herein, accordingly, the rejection of those claims is moot. Applicant has amended claim 3 to obviate the rejection of that claim in accordance with the Office's suggestion. Accordingly, Applicant respectfully requests the Office to withdraw the 35 U.S.C. § 112, second paragraph rejection of claims 3-9.

**The Office rejects claims 1-18 under 35 U.S.C. § 103(a) as being unpatentable over US Pre-Grant Publication No. 2003/0121032 to Cho *et al.* (Cho) in view of US Pre-Grant Publication No. 2002/0099837 to Oe *et al.* (Oe).** *Office Action* at p. 3. Claims 4-8, 13, and 17-18 are canceled herein, accordingly, the rejection of those claims is moot. Applicant respectfully traverses the rejection of the remaining claims and requests reconsideration and reexamination.

Independent claim 1 recites a combination of elements including: "an upgrade means for deciding whether a second storage unit separated from the first storage unit stores an upgrade file corresponding to the protected program, and upgrading the protected program by using the upgrade file when the second storage unit stores the upgrade file corresponding to the protected program." Independent claims 9 and 14 recite a combination of elements including: "An upgrade method ... comprising ... deciding whether a second storage unit separated from the

first storage unit stores an upgrade file corresponding to the protected program; and upgrading the protected program by using the upgrade file when the second storage unit stores the upgrade file corresponding to the protected program.”

The technical features of independent claims 1, 9, and 14 provide for an upgrade apparatus and method for a network system which, for example, can automatically upgrade a home appliance in which a storage unit protecting program has been installed in a first storage unit and the upgrade file is stored in a second storage unit.

However, *Cho* appears to disclose that if a second processor receives an interrupt signal from a first processor in a first unit, the second processor starts a download/setup program stored in a second memory, and when the download/setup program is executed, the household device accesses a gateway, receives update function data and updates a first memory with the update function data. *See, e.g., Cho* at ¶¶ 0074-0075. That is, *Cho* fails to teach or suggest “a first storage unit in which at least one protected program has been installed [but where] an upgrade file corresponding to the protected program [is stored in a] second storage unit...” as recited in independent claim 1. Nor does it teach or suggest “a first storage unit in which at least one protected program has been installed [and] steps of ... deciding whether a second storage unit ... stores an upgrade file corresponding to the protected program” as recited in independent claims 9 and 14.

*Oe* fails to cure the deficiencies of *Cho*. *Oe* appears to disclose an information processing method of controlling access to computer resources, managed by an operating system, including resources such as a file, network, storage device, display screen, or external device, by trapping the operation request before access to the computer resource. *See Oe* at Abstract. That is, *Oe* fails to teach or suggest an appliance in which a storage unit protecting program has been installed in the first storage unit and the upgrade file is stored in the second storage unit.

For at least all of the reasons stated above, the combination of *Cho* and *Oe* fails to teach or suggest each and every element of independent claims 1, 9, or 14. Accordingly, independent claims 1, 9, and 14 are patentably distinguishable over *Cho* and *Oe* in combination. Claims 2 and 3 depend from independent claim 1. Claims 10-12 variously depend from independent claim 9. Claims 15 and 16 depend from independent claim 14. It stands to reason that these dependent claims are patentably distinguishable over *Cho* and *Oe* for at least the same reasons as the

independent claims from which they depend. Accordingly, Applicant respectfully requests the Office to withdraw the 35 U.S.C. § 103(a) rejections of claims 1-18.

**The Office rejects claims 19-25 under 35 U.S.C. § 103(a) as being unpatentable over *Cho* in view of *Oe* and further in view of U.S. Patent No. 6,684,397 to *Byer et al. (Byer)*.**

*Office Action* at p. 7. However, based on the detailed action it appears that the Office intended to reject claims 19-35, as information concerning the Office's rational for rejecting claims 26-35 is included with information concerning the Office's rational for rejecting claims 19-25. *See Office Action* at pp. 7-11. Accordingly, Applicant addresses this rejection as a rejection of claims 19-35. Claims 23-25, 29-30, and 34-35 are canceled herein; accordingly, the rejection of those claims is moot. Applicant respectfully traverses the rejection of the remaining claims and requests reconsideration and reexamination.

Independent claim 19 recites a combination of elements including, "a control means for transmitting upgrade information stored in a second storage unit to the external server through the connection means, receiving a new upgrade data from the external server, storing the new upgrade information and making the protected program upgraded when the received upgrade data corresponds to the protected program, and transmitting the upgrade file to the sub-device when the received upgrade data does not correspond to the protected program; and an upgrade means for upgrading the protected program corresponding to the received upgrade data according to the control of the control means."

Independent claim 26 and 31 relate to "a upgrade method for a network system communicating with at least one sub-device and including a first storage unit in which at least one protected program has been installed and a second storage unit which is separated from the first storage unit and stores upgrade data including upgrade information and an upgrade file corresponding to the protected program," and recite a combination of elements including, "receiving upgrade data from the external server; storing the received upgrade data when the received upgrade data corresponds to the protected program, and upgrading the protected program corresponding to the received upgrade data; and transmitting the received upgrade data to the sub-device when the received upgrade data does not correspond to the protected program."

The technical features of claims 19, 26, and 31 provide an upgrade apparatus and method for a network system which, for example, receives upgrade data for the upgrade apparatus and sub-devices of the network system from an external server, and automatically upgrades the

protected program installed in the upgrade apparatus or transmits the upgrade data to sub-devices such that they may be upgraded.

However, as stated above, *Cho* appears to disclose that if a second processor receives an interrupt signal from a first processor in a first unit, the second processor starts a download/setup program stored in a second memory, and when the download/setup program is executed, the household device accesses a gateway, receives update function data and updates a first memory with the update function data. *See, e.g., Cho* at ¶¶ 0074-0075. In other words, *Cho* fails to teach or suggest the control means for making the protected program upgraded when the received upgrade data corresponds to the protected program and transmitting the upgrade file to the sub-device when the received upgrade data does not correspond to the protected program. Furthermore, *Cho* fails to teach or suggest a method for making the protected program upgraded when the received upgrade data corresponds to the protected program and transmitting the upgrade file to the sub-device when the received upgrade data does not correspond to the protected program.

*Oe* fails to cure the deficiencies of *Cho*. *Oe* appears to disclose an information processing method of controlling access to compute resources, managed by an operating system, including resources such as a file, network, storage device, display screen, or external device, by trapping the operation request before access to the computer resource. *See Oe* at Abstract. That is, *Oe* fails to teach or suggest the control means for updating a protected program when received upgrade data corresponds to the protected program and transmitting the upgrade data to the sub-device when the received upgrade data does not correspond to the protected program.

*Byer* fails to cure the deficiencies of *Cho* and *Oe*. *Byer* appears to disclose that a master may direct a slave to copy new software from a first storage device to a second storage device. That is, *Byer* fails to teach or suggest a control means, or a method, for upgrading the protected program when the received upgrade data corresponds to the protected program and transmitting the upgrade data to the sub-device when the received upgrade data does not correspond to the protected program.

For at least the reasons presented above, *Cho*, *Oe*, and *Byer*, either alone or in any combination, fail to teach or suggest each and every element of independent claims 19, 26, or 31. Accordingly, independent claims 19, 26, and 31 are patentably distinguishable over *Cho*, *Oe*, and *Byer*. Claims 20-22 variously depend from independent claim 19. Claims 27-28 depend from

independent claim 26 and Claims 32-33 depend from independent claim 31. It stands to reason that these dependent claims are patentably distinguishable over *Cho*, *Oe*, and *Byer* for at least the same reasons as the independent claims from which they depend. Accordingly, Applicant respectfully requests the Office to withdraw the 35 U.S.C. § 103(a) rejections of claims 19-35.

### **CONCLUSION**

Applicants believe this application is in condition for allowance and early, favorable action is respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to Deposit Account No. 50-0911.

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Respectfully submitted,

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